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MITSUI O.S.K. LINES, LTD.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

MITSUI O.S.K. LINES, LTD., Plaintiff, v. CB FREIGHT INT'L, INC., Defendant.	Case No. 16-cv-05002-KAW (and Related Case: 15-cv-05289-KAW) **DECLARATION OF WARRIN MINCK IN SUPPORT OF APPLICATION FOR ENTRY OF DEFAULT JUDGMENT**

DECLARATION OF WARRIN MINCK

I, Warrin Minck, declare and state as follows:

1. MOL (America) INC., ("MOLAM") is the United States general agent for Plaintiff MITSUI O.S.K. LINES, LTD. ("MOL"), a Japanese corporation engaging in intermodal transportation as a common carrier of goods by sea for hire.

2. I am the Senior Internal Auditor for MOLAM and have personal knowledge of the facts stated in this declaration. If called upon to testify, I could and would testify thereto. I am generally familiar with MOL shipping documents, including bills of lading, the manner in which MOL transports and releases cargo and is paid for services rendered.

3. A true and correct copy of the Combined Transport Bill of Lading(s) ("Subject B/L"), representative of the bills of lading issued for and governing these shipments, is attached hereto as Exhibit 3.

4. A true and correct copy of the terms and conditions of the Combined Transport Bill of Lading is attached hereto as Exhibit 4. These are found on the reverse side of the Subject B/L, as well as MOL's website, www.MOLpower.com. These terms and conditions incorporate by reference MOL's applicable tariff.

5. Service Contract Numbers CN0000ERT and CN00005Q8, which governed these shipments also incorporate by reference MOL's applicable tariff: "This Contract incorporates by reference (a) MOL Rates and Rules Tariff FMC - 137, 142, 145, 146, 147, 148, 150,151, 152, 153, 154, 155, 156, 200, 204, 205, 207, 208, 209, 210, or subsequent re-issues thereto or otherwise applicable tariff and (b) MOL Bill of Lading Tariff FMC – 138 . . . ."

6. CB Freight misdescribed or misdeclared commodities to MOL on at least 135 shipments. As a result of these misdeclarations, MOL charged and collected less than was actually due under the relevant service contracts and tariff. Each misdeclaration gives rise to "liquidated damages" and a "rerating charge" under the relevant contracts of carriage. These misdescriptions and/or misdeclarations caused MOL damages in the amount of $1,056,854 plus CNY 260,820 in outstanding freight charges. These damages are reflected in a report titled "CB Freight Int'l Inc. Summary," a true and correct copy of which is attached hereto as Exhibit 5. Column "A" of this spreadsheet contains the undercharged amount, which is determined by reviewing our service contract rates and comparing the freight and charges that were assessed based on the original misdecription to the freight and charges that should and would have been charged if truthful particulars had been provided. Column "B" includes the liquidated damages, which is an additional amount equal to the full amount of all tariff or contract freight and charges due on the cargo that should and would have been charged if truthful

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particulars had been provided. Column "C" is the sum of the undercharged amounts (column "A") and the liquidated damages (column "B") to obtain MOL's total damages of $1,056,854 plus CNY 260,820.

I declare the foregoing to be true and correct under the laws of the United States of America, executed on the 19 day of October, 2016, at Woodbridge, N.J..

Warrin Minck